

From: London, Sarah [Sarah.London@vermont.gov]
Sent: Friday, April 08, 2016 4:53 PM
To: EXE
Subject: FW: Jay Peak Litigation Hold Notice
Attachments: 2015 10 9 Jay Peak Litigation Hold.pdf; ATT00001.htm

All, this is a friendly reminder about attached litigation hold notice from the Attorney General's Office. Please see attached. As always, happy to discuss if you have any questions. Thanks,
Sarah

From: London, Sarah
Sent: Friday, October 09, 2015 5:03 PM
To: EXE <EXE@vermont.gov>
Subject: Fwd: Jay Peak Litigation Hold Notice

All, this is a litigation hold notice from the Attorney General's Office regarding Jay Peak EB-5 records. This applies to everyone in the office, though I expect the vast majority of records described in this memo will be with senior staff. If you have correspondence with the people listed in this memo or substantive correspondence about the topics listed in this memo that do not involve senior staff, please save them in a separate folder. **Senior staff: please segregate any and all records you have into a separate folder. All staff should preserve the records described in this memo.** Happy to discuss any questions. Thank you,
Sarah

Sent from my iPad

Begin forwarded message:

From: "Alexander, Jon" <jon.alexander@vermont.gov>
Date: October 9, 2015 at 1:56:00 PM EDT
Subject: Jay Peak Litigation Hold Notice

Good afternoon-

Please see the attached and contact me with any questions.

Thanks, Jon

Jon T. Alexander
Assistant Attorney General
Office of the Attorney General
109 State Street
Montpelier, VT 05609-1001
(802) 828-1299
jon.alexander@vermont.gov (please note my new email address)

WILLIAM H. SORRELL
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SUSANNE YOUNG
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STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER
05609-1001

To: Susan Donegan, Commissioner, Department of Financial Regulation

Patricia Moulton, Secretary, Agency of Commerce and Community Development

Sarah E.B. London, General Counsel, Office of the Governor

Deputy Attorney General Susanne Young

From: Jon T. Alexander, Assistant Attorney General

Re: Request for preservation of documents –
Jay Peak EB-5 Litigation

Date: October 9, 2015

CONFIDENTIAL ATTORNEY-CLIENT PRIVILEGED
ATTORNEY WORK PRODUCT

This memorandum is to formally notify you that we are advising the Department of Financial Regulation (“DFR”), Agency of Commerce and Community Development (“ACCD”), the Office of Governor and the Office of the Vermont Attorney General (“AGO”) to preserve all documents related to possible litigation concerning Jay Peak and Burke Mountain Projects in the “EB-5 Program,” a federal visa initiative designed to give foreign investors a legal path to obtain United States residency.

This type of notice is typically referred to as a “litigation hold” notice. In certain circumstances, the courts require that steps be taken to preserve documents, both paper and electronic, related to the subject matter of the litigation. These requirements are serious and sobering. Harsh sanctions can be imposed by the courts if documents are not retained.

DFR, ACCD, AGO and the Governor's Office should continue the "litigation hold" until any lawsuit involving the State and all appeals come to a close. It should be discontinued only after consultation with me and Susanne Young, Deputy Attorney General.

Scope of request

This request for preservation of documents relates to possible litigation relating to any Jay Peak and Burke Mountain projects in the EB-5 program. The request to preserve documents applies to all documents held by DFR, ACCD, AGO and the Governor's Office, including written documents and all electronically stored documents and information. The obligation to preserve electronically stored information applies to all aspects of DFR, ACCD, AGO and the Governor's Office's technology, and includes information held in their buildings, in storage facilities run by the Department of Public Records, and in any other off-site storage facility.

The documents retained should include all paper or electronic documents, as well as draft or final versions of internal and external correspondence (including e-mails and text messages), memoranda, notes and other documents referencing or relating to:

- Jay Peak or Burke Mountain EB-5 Projects;
- any of the following entities involved in the Jay Peak or Burke Mountain EB-5 Projects:
 - Jay Peak Hotel Suites L.P.
 - Jay Peak Hotel Suites Phase II L.P.
 - Jay Peak Penthouse Suites L.P.
 - Jay Peak Golf and Mountain Suites L.P.
 - Jay Peak Lodge and Townhouses L.P.
 - Jay Peak Suites Stateside L.P.
 - Q Burke Mountain Resort, Hotel and Conference Center, L.P.
 - Jay Peak Biomedical Research Park, L.P.;
- the Private Placement Memorandum (PPMs) for any of the Jay Peak or Burke Mountain EB-5 Projects;
- any of the following :
 - Ariel Quiros
 - William Stenger
 - William Kelly
 - Ary Quiros

Joel Burnstein
AnC Bio VT LLC
AnC Bio Vermont GP Services, LLC
Q Burke Mountain Resort GP Services, LLC
Q Resorts, Inc.
G.S.I. of Dade County, Inc.
Jay Construction Management, Inc.
North East Contract Services, LLC.

In addition, any documents created from now on related to any of the above-described related categories must also be preserved. All information should be stored in original, unaltered form. E-mails may be the most difficult category of information to preserve, so your personnel should work to identify relevant e-mails and prevent them from being lost or destroyed. They should be saved in an easily accessible electronic file; if that is not feasible then they should be printed and stored prior to deletion. It is important to preserve e-mails and correspondence in your files related to this matter, even if they may eventually be protected from disclosure by a claim of privilege. Please confer with your Information Technology personnel on the best way to preserve electronic documents in each person's individual possession or control relating to any of the above-described related categories.

Communication of Litigation Hold Request to Personnel

This request from State legal counsel must be communicated by you to all personnel in DFR, ACCD, AGO and the Governor's Office who have control of document or data systems and to all personnel who may have authored or received any documents related to the above-described related categories. Documents of former employees should be similarly retained.

If, during the pendency of this litigation hold, other personnel who have e-mails or other electronic documents or information that pertain to the issues noted above leave their employment with DFR, ACCD, AGO or the Governor's Office, certain steps overseen by your respective Information Technology personnel should be taken to preserve those electronic documents and information. Any relevant documents or information contained on the computer hard drives of these employees or on your shared drives or network servers should be retained, and their e-mails should be preserved. To the extent possible, such employees should be encouraged to identify relevant documents or information before they cease their employment.

In addition, any agency or department automatic or regular document destruction policy should be discontinued for the duration of this litigation hold.

If you have any questions about your obligations regarding preservation of documents, please contact me.